

Message Text

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PASS: TREASURY, FEDERAL RESERVE, COMMERCE (NO AA),
COPENHAGEN FOR REGIONAL FISHERIES ATTACHE

E.O. 11652: N/A
TAGS: EFIN, ECON, OECD
SUBJECT: MARCH 23-25 MEETING OF INVISIBLES COMMITTEE

REF: (A) OECD PARIS 3851; (B) DAF/INV/77.9;
(C) DAF/INV/77.12; (D) DAF/INV/77.8; (E) DAF/INV/77.1;
(F) DAF/INV/77.4; (G) DAF/INV/77.15; (H) DAF/INV/77.10;
(I) DAF/INV/77.11

1. SUMMARY. INVISIBLES COMMITTEE (IC) SPENT MOST OF
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ITS TIME ON AUSTRALIAN DEROGATION, COMPLETING REPORT TO
COUNCIL WITH FORMULATION WHICH WOULD PERMIT COUNCIL
TEMPORARILY TO AGREE TO DEROGATION UNDER CAPITAL MOVE-
MENTS CODE (CMC), WITHOUT, HOWEVER, ACCEPTING AUSTRALIAN
ARGUMENTS. IC HEARD ORAL STATEMENT FROM PORTUGAL AND
WHILE EXPRESSING GENERAL SYMPATHY WILL GIVE CAREFUL
SCRUTINY AT NEXT MEETING TO SPECIFIC GOP REQUEST FOR

DEROGATIONS UNDER BOTH OECD CODES FOR A NUMBER OF RESTRICTIONS PREVIOUSLY INSTITUTED. EXAMINATION OF NETHERLANDS' RESERVATIONS TO CMC UNDERTAKEN WITH MODEST RESULTS. INTRODUCTION OF FOREIGN FISHING VESSEL TAX IN NEW ZEALAND AND QUESTION OF INTERPRETATION OF ARTICLES 9 AND 10 OF CODES WERE BRIEFLY CONSIDERED. EXAMINATION OF U.S. POSTPONED TO JULY SESSION. SEE ACTION REQUESTED BELOW IN PARAS 3B, 8, 9 AND 11. END SUMMARY.

2. IC MET MARCH 23-25. SECRETARIAT'S ORAL INTRODUCTION NOTED INVESTMENT COMMITTEE'S DECISION TO UNDERTAKE PERIODIC REVIEW OF CASES OF RESTRICTIONS ON DIRECT INVESTMENT WHICH HERETOFORE HAS TAKEN PLACE AT ANNUAL IC "SPECIAL SESSIONS." LETTER (IN FRENCH) FROM DEPUTY SECGEN ELDIN TO IC CHAIRMAN WITKOWSKI WAS CIRCULATED (COPIES BEING MAILED TO DEPARTMENT/GELBARD AND TREASURY/VAN BATENBURG) SUGGESTING THAT IN INTEREST OF EFFICIENCY IC SHOULD AVOID CONSIDERATION OF DIRECT INVESTMENT QUESTIONS AND RELEVANT GOVERNMENT POLICIES WHICH INVOLVE "MEANS OTHER THAN THOSE ENVISIONED BY THE CODES OF LIBERALIZATION." IC AGREED THAT IT WOULD FOREGO ITS OWN ANNUAL SPECIAL SESSION BUT CONSEQUENTLY WOULD HAVE TO MONITOR MORE CLOSELY, IN ITS TOUR D'HORIZON, INCIDENTS OF DIRECT INVESTMENT RESTRICTIONS WHICH WERE NOT COVERED BY RESERVATIONS TO THE CMC (AND NOT NOTIFIED IN ACCORDANCE WITH ARTICLE 11B). SECRETARIAT ALSO REPORTED ON COMMITTEE ON FINANCIAL MARKET'S CONSIDERATION OF "U.S. PROPOSAL" ON IMPEDIMENTS TO INTERNATIONAL FLOWS OF PORTFOLIO CAPITAL, STATING THAT THIS EXERCISE WOULD NOT LIMITED OFFICIAL USE

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IMPINGE ON IC'S WORK AS IT WOULD FOCUS ON IMPEDIMENTS FACING OPERATORS IN THE MARKETS RATHER THAN ON CAPITAL CONTROLS.

3. TOUR D'HORIZON

A. SPAIN. IN BRIEF DISCUSSION OF REVISED SYSTEM OF CONTROLS ON INWARD DIRECT INVESTMENT IN SPAIN (REF B), WHICH PROVIDES FOR GENERAL AUTHORIZATION FOR PROJECTS MEETING CERTAIN CRITERIA IF NO OBJECTION IS RAISED WITHIN 90 DAYS, IC EXPRESSED SOME PUZZLEMENT ABOUT REQUIREMENT OF A MINIMUM AMOUNT TO QUALIFY FOR GENERAL AUTHORIZATION AND ALSO WONDERED WHETHER THE NEW REGIME ACTUALLY ENTAILS SIGNIFICANT LIBERALIZATION SINCE IT WOULD APPEAR THAT QUALIFYING PROJECTS WOULD HAVE BEEN APPROVED ANYWAY UNDER PREVIOUS CASE-BY-CASE EXAMINATION. IT WAS CLARIFIED THAT CRITERION THAT INVESTMENT "CONTINUES TO EARN A NET BALANCE OF FOREIGN CURRENCY

EACH YEAR" APPLIES TO CURRENT OPERATIONS, NOT TO
REPATRIATION OF PROFITS, DISINVESTMENT, ETC.
SPANISH EXPERT WILL ASCERTAIN WHETHER PRESS REPORTS
OF ADDITIONAL CRITERION RELATED TO PAYMENTS FOR

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IMPORT OF FOREIGN TECHNOLOGY ARE ACCURATE.

B. OTHER RECENT MEASURES. REF C CONVEYS EXTRACTS
OF PRESS REPORTS ON VARIOUS ECONOMIC/FINANCIAL
MEASURES TAKEN RECENTLY BY MEMBER COUNTRIES AND
ON SPECIFIC CONTROL MEASURES (GENERALLY INDIVIDUAL
DIRECT INVESTMENT CASES) BEARING MORE DIRECTLY ON
THE LIBERALIZATION CODES. THIS HAS PREVIOUSLY
BEEN DONE AS A WORKING DOCUMENT, BUT REF C PRO-
POSES MORE FORMAL CIRCULATION OF THIS COMPENDIUM

AND A SYSTEM OF CONFIRMING PRESS REPORTS. IT WAS
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AGREED THAT NEW PROCEDURE WOULD BE FOLLOWED; HOWEVER, SECRETARIAT WILL SEEK TO INCLUDE ONLY PRESS REPORTS OF DIRECT RELEVANCE TO CODES, AND DOCUMENT WILL HAVE INTERNAL CHARACTER (I.E., TO REDUCE NEED TO REDRAFT INFORMATION IN ACCORDANCE WITH OFFICIAL ANNOUNCEMENTS WHICH COUNTRIES MIGHT FEEL COMPELLED TO DO AND TO AVOID PROBLEMS VIS-A-VIS COUNTRIES NOT REPRESENTED IN IC). ALSO, MEMBERS WILL ENDEAVOR TO PROVIDE INFORMATION IN ADVANCE OF MEETINGS ON MEASURES OR SPECIFIC CASES WHICH WOULD NORMALLY BE INCLUDED. REGARDING ENTRIES FOR U.S. (ADDENDUM TO REF C), U.S. MEMBER REFERRED SECRETARIAT TO FEBRUARY ISSUE OF FEDERAL RESERVE BULLETIN FOR CONFIRMATION ON REVISIONS OF FOMC DIRECTIVE ON FOREIGN CURRENCY OPERATIONS (POINTING OUT THAT THIS KIND OF REPORT NEED NOT BE BROUGHT TO IC ATTENTION) AND PROVIDED HIS UNDERSTANDING OF BACKGROUND TO BIC PEN CORP. CASE. ACTION REQUESTED: ADVISE MISSION (A) IF ELABORATION OF ENTRY ON BIC PEN ITEMS IS DESIRED (FRENCH CHAIRMAN WAS PARTICULARLY INTERESTED AND (B) IN FUTURE, TO EXTENT POSSIBLE, OF COMPARABLE CASES AS THEY OCCUR (REFERENCE TO PUBLISHED SOURCES, CORRECTING AS NECESSARY, IS SUFFICIENT).

4. SWISS ALTERNATE RAISED PORTUGUESE SHIPPING LAW. GOP OBSERVER ADVISED THAT OECD WOULD BE NOTIFIED (SEE SEPTTEL)

5. AUSTRALIA (DEROGATION). IC SPENT AFTERNOON OF FIRST DAY DISCUSSING GOA REQUEST FOR CONTINUATION OF DEROGATION UNDER ARTICLE 7(B) OF CMC, ORIGINALLY GRANTED IN 1973, TO COVER RESTRICTIONS WHICH WERE IMPOSED IN JANUARY 1977. BACKGROUND ON PREVIOUS IC CONSIDERATION IS CONTAINED IN REF A AND PRECEDING REPORTS. IC HAD BEFORE IT SECRETARIA NOTE (REF D) OF UNUSUALLY HIGH ANALYTICAL CALIBER WHICH EXPRESSED VIEW THAT REFLUX OF CAPITAL FOLLOWING NOVEMBER DEVALUATION WAS TO BE EXPECTED (INDEED, WAS A POLICY GOAL
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ALTHOUGH GOA HAD APPARENTLY UNDERESTIMATED ACTUAL REFLOW) AND THAT AVAILABILITY OF EXCHANGE RATE WEAPON AND MONE- TARY POLICY MEASURES OUGHT TO SUFFICE IN LIMITING INFLOWS, AT LEAST ONCE INITIAL REVERSAL OF LEADS AND LAGS FOLLOWING DEVALUATION HAD OCCURRED. NEVERTHELESS,

NOTE SUGGESTED THAT IC FIND THE INVOCATION OF 7(B) TO BE "STILL JUSTIFIED" BUT TO REVIEW THE SITUATION BEFORE YEAR-END. (EVIDENTLY, SECRETARIAT FELT THAT IT WOULD BE POLITICALLY IMPOSSIBLE FOR AUSTRALIA TO ACCEPT OECD REQUEST TO WITHDRAW MEASURES IMMEDIATELY.) AUSTRALIAN NOTE, IN FORM OF WORKING DOCUMENT (MAILED TO GELBARD, VAN BATENBURG, AND EMBASSY CANBERRA) CIRCULATED AT MEETING, PROVIDED FIRST COHERENT DEFENSE OF MEASURES. HOWEVER, IC MEMBERS FOR THE MOST PART WERE EXTREMELY DUBIOUS OF VALIDITY OF GOA CASE GIVEN AUSTRALIA'S NEED TO FINANCE LARGE CURRENT ACCOUNT DEFICIT, CONTRADICTION BETWEEN NEW INWARD CONTROLS AND GENERAL ORIENTATION OF CAPITAL CONTROLS TOWARD OUTWARD FLOWS, AND ABSENCE OF ADEQUATE ARGUMENTS AGAINST ALLOWING EXCHANGE RATE TO APPRECIATE TO POINT WHERE INFLOWS WERE SUFFICIENTLY RESTRAINED. MOST MEMBERS WHO SPOKE ALIGNED THEMSELVES WITH U.S. MEMBER'S ARGUMENT THAT CASE HAD DEFINITELY NOT BEEN MADE AND THAT IT WOULD NOT BE POSSIBLE FOR IC TO FIND MEASURES "JUSTIFIED." SINCE SECRETARIAT WAS INSISTENT THAT SOMETHING BE SENT TO COUNCIL, SMALL WORKING GROUP MET FOLLOWING AFTERNOON AND AGREED TO A DRAFT REPORT TO COUNCIL WHICH, WHILE CLEARLY NOT ACCEPTING GOA ARGUMENTS, RECOMMENDS COUNCIL "EXPRESS UNDERSTANDING." U.S. MEMBER RELUCTANTLY ACCEPTED THIS FORMULATION (PREFERRING, WITH SECRETARIAT, "DID NOT DISAPPROVE" -- WHICH FORMULATION, HOWEVER, SOME OTHER IC MEMBERS FELT WOULD CAUSE AUSTRALIA TO BLOCK REPORT IN THE COUNCIL). IC SUBSEQUENTLY AGREED TO WG DRAFT REPORT WITH SOME MODIFICATIONS AS SUGGESTED

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BY AUSTRALIAN OBSERVER (I.E., GOA WILL PRESUMABLY ACCEPT IT IN PAYMENTS COMMITTEE AND COUNCIL).

6. AUSTRALIA (RESERVATIONS). DRAFT REPORT ON IC'S EXAMINATION OF GOA RESERVATIONS TO CMC (REF E) WHICH WAS BEGUN AT NOVEMBER SESSION WAS AGAIN POSTPONED SO THAT IT COULD BE REDRAFTED TO REFLECT THEMES ARISING DURING CONSIDERATION OF REQUEST FOR CONTINUED DEROGATION.

7. PORTUGAL. ANTICIPATED DOCUMENT SPECIFYING ON WHICH ITEMS OF OECD CODES PORTUGAL WOULD SEEK DEROGATION FROM LIMITED OFFICIAL USE

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ITS LIBERALIZATION OBLIGATION -- AND UNDER WHICH CLAUSE OF ARTICLE 7 -- DID NOT EMERGE AS SECRETARIAT HAD NOT FOUND PORTUGUESE SUBMISSION TO BE SUFFICIENTLY EXPLICIT. IC HEARD ORAL STATEMENT FROM GOP REP (SILVA GUERRA) WHO ASKED FOR GENERAL DEROGATION UNDER CLAUSE (A) OF ARTICLE 7. AFTER CONSIDERABLE DEBATE, IC CONSENSUS REACHED THAT CLAUSE (B) -- "SERIOUS ECONOMIC ('AND FINANCIAL' IN CASE OF CAPITAL MOVEMENT CODE) DISTURBANCE" -- SEEMED MOST SUITABLE SINCE GENERAL DEROGATION CLAUSE (A) IN ANY CASE DOES NOT SEEM TO BE SUSCEPTIBLE TO INVOCATION ONCE SPECIFIC RESERVATIONS HAVE BEEN ADOPTED AND SINCE CLAUSE (C) -- ADVERSE DEVELOPMENT OF "OVERALL BALANCE OF PAYMENTS" -- IS MORE CLEARLY LIMITED TO TEMPORARY, CONJUNCTURAL DISEQUILIBRIA AND IN ANY EVENT COULD NOT BE INVOKED TO JUSTIFY RESTRICTIONS ON INWARD FLOWS (E.G., DIRECT INVESTMENT). U.S. MEMBER STRONGLY SUPPORTED VIEW THAT ARTICLE 14(A) WOULD PERMIT IC TO CONSIDER GOP REQUEST FOR DEROGATION UNDER 7(B) FROM SAME SYMPATHETIC STANDPOINT THAT NORMALLY GOVERNS EXAMINATION UNDER 7(A), WHICH HAS BEEN INVOKED ONLY BY GREECE, ICELAND AND TURKEY. GOP REP INDICATED ACCEPTABILITY OF 7(B), GIVEN ASSURANCE OF IC GENERAL SYMPATHY (ALTHOUGH SPECIFIC REQUESTS WILL BE CAREFULLY SCRUTINIZED) AND ITS WILLINGNESS TO BE FLEXIBLE ON NORMAL RE-EXAMINATION SCHEDULE,

AND PROMISED A WRITTEN SUBMISSION IN TIME FOR DETAILED IC EXAMINATION AT MAY MEETING. IN HIS STATEMENT, HE ALSO REITERATED THAT REVISION OF INVESTMENT CODE IS UNDERWAY AND STATED THAT NO FURTHER SIGNIFICANT NATIONALIZATION IS ENVISAGED.

8. NEW ZEALAND FISHING VESSEL TAX, REF F, (WHICH CONTAINS TYPOGRAPHICAL ERROR ON SECOND LINE OF PARA 5 -- READ "REFLECTION" VICE "RESTRICTION") INDICATES THAT ONLY SEVEN OECD MEMBERS HAVE RESPONDED TO REQUEST FOR INFORMATION ON ANY DISCRIMINATORY RESTRICTIONS OR DISINCENTIVES TO THE ENTRY OF FOREIGN FISHING VESSELS INTO THEIR LIMITED OFFICIAL USE

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PORTS (SEE 1976 OECD TELS 28302, 36277 AND 37158), AND THAT OF THESE ONLY CANADA DISCRIMINATES. FRENCH AND NETHERLANDS MEMBERS SAID THAT THEY HAVE NO DISCRIMINATORY PRACTICES IN THIS FIELD, AND JAPANESE MEMBER REPORTED THAT 1967 LAW REQUIRING CAPTAINS OF FOREIGN FISHING VESSELS TO OBTAIN MINISTERIAL PERMISSION PRIOR TO NON-EMERGENCY CALLS IN JAPAN IS IN PRACTICE NOT RESTRICTIVE SINCE PERMISSION (WHICH CAN BE REFUSED ONLY IF ENTRY WOULD BE DETRIMENTAL TO JAPANESE FISHING INDUSTRY, ETC.) HAS IN FACT ALWAYS BEEN GRANTED. ONE EXCEPTION WAS NON-OECD BOAT (USSR VESSEL ENGAGED IN ELECTRONIC SURVEILLANCE). SECRETARIAT (STEIN, LEGAL SERVICE) THEN MADE ORAL STATEMENT WHICH, IN CONSIDERABLE "EVOLUTION" FROM EARLIER POSITION, SUPPORTED NEW ZEALAND'S VIEW THAT INVISIBLES CODE (ITEMS C/1 AND C/5, IN CONJUNCTION WITH NOTES 1 AND 2) DOES NOT EXTEND TO GNZ MEASURES SINCE THE FISHING VESSELS TO WHICH THEY APPLY DO NOT ACTUALLY ENTAIL INTERNATIONAL TRADE/MARITIME TRANSPORT. BELGIAN AND SWISS EXPERTS IMMEDIATELY SUPPORTED THIS VIEW, BUT U.S. MEMBER (IN ABSENCE OF GUIDANCE FROM WASHINGTON ON THIS QUESTION) AND JAPANESE MEMBER RESERVED POSITIONS WHILE AGREEING THAT IC WOULD TAKE NOTE OF SECRETARIAT'S STATEMENT AND WOULD NOT CONSIDER ISSUE FURTHER. ACTION REQUESTED: (A) ADVISE IF PROPOSED SCENARIO IS NOT SATISFACTORY, AND (B) SUPPLY ASAP INFORMATION ON U.S. TREATMENT OF FOREIGN FISHING VESSELS AS REQUESTED IN OECD 37158.

9. ARTICLES 9 AND 10. FOLLOWING INTRODUCTION BY SECRETARIAT (STEIN, LEGAL SERVICE) OF REF G, WHICH SUMMARIZES JANUARY 31 DISCUSSION BY WORKING GROUP OF SCOPE FOR DISCRIMINATION BY MEMBERS OF CUSTOMS AND MONETARY UNIONS, IC AGREED TO HAVE ANOTHER MEETING OF WG PRECEDING MAY

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MEETING WHICH WOULD ATTEMPT TO NARROW DIFFERENCES.
ACTION REQUESTED: GUIDANCE ON THIS QUESTION, WHICH WILL
BE SUBJECT OF SEPTTEL.

10. NETHERLANDS RESERVATIONS TO CMC. DUTCH REPS (DEN
DUNNEN, HAZENBERG AND WALLER -- ALL FROM CENTRAL BANK)
INTRODUCED REF H WITH STATEMENT EMPHASIZING CONCERN WITH
EXCESSIVE DOMESTIC CREDIT EXPANSION; AUTHORITIES INTEND
TO LIMIT EXPANSION TO 10 PERCENT IN 1977 AND WILL UTI-
LIZE CREDIT CEILINGS IF "INDIRECT" MEASURES TO REDUCE
GROWTH (I.E., ABSORBING LIQUIDITY) PROVE TO BE UNFEASIBLE
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IN VIEW OF NEED TO AVOID ADDING TO UPWARD PRESSURES ON

GUILDER. DUTCH REPS DEFENDED CONTRADICTION BETWEEN
SIMULTANEOUS MAINTENANCE OF RESTRICTIONS ON INWARD AND
OUTWARD FLOWS ON GROUNDS THAT:

(A) WHILE AT ANY ONE TIME RESTRICTIONS ARE NEEDED
ON TRANSACTIONS IN ONLY ONE DIRECTION, RESTRICTIONS
ON FLOWS IN OTHER DIRECTION MUST BE RETAINED SINCE
SITUATION CAN CHANGE QUICKLY (E.G., AS IN 1976);

(B) DUTCH CAPITAL MARKET IS STILL RATHER THIN, AND
LIMITATION ON FOREIGN RECOURSE IS NECESSARY;

(C) CITATION OF CONCERN WITH RESPECT TO BUILD-UP
OF LIQUID FOREIGN ASSETS WHICH MIGHT SUBVERT MONE-
TARY POLICY SHOULD BE READ IN CONTEXT OF THE VERY
BROAD CONCEPT OF LIQUIDITY WHICH THE NETHERLANDS
EMPLOYS; AND

(D) REMOVAL OF INACTIVE RESTRICTIONS ON CERTAIN
OUTFLOWS WOULD BE MISUNDERSTOOD BY DUTCH PRIVATE
SECTOR.

IC FELT THAT RESERVATION ON SHORT AND MEDIUM-TERM OUT-
WARD COMMERCIAL CREDITS GRANTED BY RESIDENTS WHERE NO
RESIDENT PARTICIPATES IN UNDERLYING TRANSACTIONS COULD
BE LIFTED SINCE IT HAS NOT BEEN EMPLOYED FOR 10 YEARS
AND IN ANY CASE IS A LIST B ITEM. IC SIMILARLY FELT
THAT RESERVATION ON OUTWARD FINANCIAL CREDITS COULD BE
LIFTED OR MODIFIED (BY RAISING EXEMPTION LEVEL) EVEN
THOUGH GON HAD TEMPORARILY IMPOSED RESTRICTIONS UNDER
THIS ITEM IN 1976 (CLOSURE OF PRIVATE PLACEMENT MARKET
FOR FOREIGN GUILDER NOTES). SECRETARIAT WILL DRAFT
REPORT FOR CONSIDERATION AT NEXT MEETING.

11. FUTURE WORK PROGRAM. NEXT SESSION WILL BE MAY
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23-25, WITH WORKING GROUP ON ARTICLE 9 AND 10 QUESTION
MEETING ON MORNING OF 23RD (SEE PARA 9). DRAFT REPORTS
ON AUSTRALIAN AND NETHERLANDS RESERVATIONS TO CMC AND
ON PORTUGAL'S REQUEST FOR DEROGATION(S) WILL BE CON-
SIDERED, ALONG WITH EXAMINATION OF SWEDEN'S RESERVATIONS
AND ITS ARTICLE 7(C) DEROGATION UNDER CMC AND GENERAL
TOPIC OF "EFFECTIVENESS OF RESTRICTIONS" ON CAPITAL
MOVEMENTS. EXAMINATION OF U.S. RESERVATIONS TO CMC WAS
POSTPONED TO JULY SESSION OF IC. ACTION REQUESTED: SUB-
MISSION OF U.S. MEMORANDUM WOULD BE APPRECIATED AS SOON
AS POSSIBLE, BUT IN ANY CASE PRIOR TO MID-MAY (SEE
REF A).
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